

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

Phoeben, Inc.,

Debtor.

§
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§
§
§

Chapter 11

Case No. 19-31000

MOTION TO REOPEN BANKRUPTCY CASE

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

A HEARING HAS BEEN SCHEDULED FOR SEPTEMBER 13, 2023 AT 11:00 A.M. BEFORE THE HONORABLE JEFFREY P. NORMAN.

PLEASE NOTE THAT ON OCTOBER 19, 2020, THE COURT AMENDED THE MARCH 24, 2020 ORDER INVOKING THE PROTOCOL FOR EMERGENCY PUBLIC HEALTH OR SAFETY CONDITIONS THROUGH GENERAL ORDER 2020-20

PARTIES MAY PARTICIPATE IN ELECTRONIC HEARINGS BY USE OF AN INTERNET CONNECTION. TO ACCESS THE HEARING, DIAL 1 (832) 917-1510. CONFERENCE CODE: 174086.

TELEPHONIC PARTICIPANTS MAY CONNECT ON-LINE TO VIEW THE COURT'S BROADCAST ONTO THE COURTROOM'S TELEVISION MONITORS. TO VIEW ONLINE, YOU MAY CONNECT THROUGH THE WEBSITE LOCATED AT:

<https://www.gotomeet.me/JudgeNorman>

TO THE HONORABLE JEFFREY P. NORMAN, UNITED STATES BANKRUPTCY JUDGE:

Jarrold B. Martin, the plan administrator (“**Plan Administrator**”) for the bankruptcy

estate of Phoebe, Inc. (“**Debtor**”) in the above-captioned case files this *Emergency Motion to Reopen Bankruptcy Case* (“**Motion**”). In support of his Motion, the Trustee respectfully states as follows:

BACKGROUND

1. The Debtor filed a voluntary chapter 11 petition on February 26, 2019 (“**Petition Date**”).¹
2. Thereafter, the Debtor filed its First Amended Disclosure Statement and Plan of Liquidation on July 3, 2019 (“**Liquidating Plan**”).²
3. The Liquidating Plan was confirmed on September 5, 2019 by Order (“**Confirmation Order**”),³ and the Plan Administrator was appointed.
4. The Plan Administrator filed his Motion for Final Decree on January 24, 2023, which was granted on February 21, 2023.
5. Thereafter, the Plan Administrator was made aware of certain taxes related to payroll owed by the Debtor that were incurred post-confirmation. The Plan Administrator has not incurred 941 taxes for any taxes related to his work. Indeed, the Court ruled that operations by “NewCo” during the post-confirmation period were not post-confirmation Debtor operations. Ms. Armenta used the EIN of the Debtor for “NewCo”, unrelated to the Debtor, and did so after plan confirmation.
6. In addition, numerous final distributions were returned or remain uncashed.

¹ ECF No. 1.

² ECF No. 132.

³ ECF No. 147.

7. Accordingly, the Plan Administrator seeks Court authority to reopen the bankruptcy case to deal with the post-confirmation tax issue and to allow the Plan Administrator to deposit funds into the Court's registry. Motions related to these issues are being filed simultaneously with this Motion.

8. WHEREFORE, the Plan Administrator requests this Court grant the relief requested herein; and for such other and further relief as the Court deems appropriate.

Dated: August 7, 2023

Respectfully submitted,

By: /s/ Jarrod B. Martin

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Plan Administrator

CERTIFICATE OF SERVICE

The undersigned certifies that on August 7, 2023, a true and correct copy of the foregoing Notice was served electronically on all parties registered to receive electronic notice of filings in this case via this Court's ECF notification system and on counsel for Emily Armenta via email and first-class, pre-paid United States mail:

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/s/ Jarrod B. Martin

Jarrod B. Martin